IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.4614 of 2004

Between:

1 P.Narayana, s/o late P.Anjaiah,
Occ:Business, r/o H.No.5-1-373,
Old Ghasmandi, Secunderabad.
2 P.Narender, s/o late P.Anjaiah,
Occ:Business, r/o H.No.5-1-373,
Old Ghasmandi, Secunderabad.
3 P.Nagaraju, s/o late P.Anjaiah,
Occ:Business, r/o H.No.5-1-373,
Old Ghasmandi, Secunderabad.

…PETITIONERS

AND

The Commissioner, Municipal Corporation of Hyderabad,
Tankbund Road, Basheerbagh, Hyderabad.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in refusing to receive the application for construction of building in the western portion of land in Plot No.2, admeasuring 416.33 square yards in premises bearing Old No.136 (New No.1-8-54/1/1), situated at Prendergast Road, Secunderabad, & insisting upon the production of No Objection Certificate/T.S.L.R., as illegal, arbitrary and unconstitutional and consequently direct the respondent to receive my application for grant of permission for construction of building duly taking into consideration of the documents filed by the petitioners along with application dt.12-02-2004.

Counsel for the Petitioners: MR.V.BRAHMAIAH CHOWDARY

Counsel for the Respondent: SMT.G.JYOTHI KIRAN

The Court made the following:

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ORDER:

The grievance of the petitioner in the Writ Petition is that when he tried to submit an application under Section 428 of the Hyderabad Municipal Corporation Act, 1955 (HMC Act), the respondent refused to receive the application on the ground that the petitioner has not enclosed the No Objection Certificate/TSLR for grant of permission. The petitioner therefore seeks a direction to the respondent to receive the application for building permission and pass orders taking into consideration of the documents. As a similar relief is prayed in the miscellaneous application also, the Writ Petition is being disposed of at the interlocutory stage itself with the consent of learned counsel for the petitioner and learned standing counsel for Municipal Corporation of Hyderabad.

Whether or not a person has presented an application seeking building permission in appropriate proforma with all enclosures is a matter to be gone into by the respondent after receiving the application. The respondent, in law, cannot refuse to receive any application by way of notice under Section 428 of the Act, informing the Commissioner to grant permission. Therefore, the Writ Petition is disposed of directing the respondent to receive the application of the petitioner and pass appropriate orders there on.

The Writ Petition is accordingly disposed of.

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(V.V.S.RAO, J)

9th September 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Commissioner, Municipal Corporation of Hyderabad,
   Tankbund Road, Basheerbagh, Hyderabad.

2. Two CD copies.